

Senate Study Bill 3190 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON BOLKCOM)

A BILL FOR

1 An Act relating to the administration of the tax and related
2 laws by the department of revenue, including the renewable
3 energy tax credit, the solar energy system tax credit,
4 appeal procedures for certain centrally assessed property,
5 an extension of the utility replacement tax task force,
6 requiring background checks for job applicants and persons
7 performing work for the department of revenue, a sales and
8 use tax exemption for certain items used in performance of
9 a construction contract with designated exempt entities,
10 and including effective date and retroactive applicability
11 provisions.
12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **421.48 Background checks.**

2 An applicant for employment with the department of revenue
3 shall be subject to a national criminal history check through
4 the federal bureau of investigation. A contractor, vendor,
5 employee, or any other individual performing work for the
6 department of revenue, shall be subject to a national criminal
7 history check through the federal bureau of investigation
8 at least once every ten years. The department of revenue
9 shall request the national criminal history check and shall
10 provide the individual's fingerprints to the department
11 of public safety for submission through the state criminal
12 history repository to the federal bureau of investigation.
13 The individual shall authorize release of the results of the
14 national criminal history check to the department of revenue.
15 The department of revenue shall pay the actual cost of the
16 fingerprinting and national criminal history check, if any.
17 The results of a criminal history check conducted pursuant to
18 this section shall not be considered a public record under
19 chapter 22.

20 Sec. 2. Section 422.11L, subsection 3, paragraph d, Code
21 2016, is amended to read as follows:

22 d. (1) A taxpayer must submit an application to the
23 department for each separate and distinct solar installation.
24 The application must be approved by the department in order to
25 claim the tax credit. The application must be filed by May
26 1 following the year of the installation of the solar energy
27 system.

28 (2) The department shall accept and approve applications
29 on a first-come, first-served basis until the maximum amount
30 of tax credits that may be claimed pursuant to subsection 4
31 is reached. If for a tax year the aggregate amount of tax
32 credits applied for exceeds the amount specified in subsection
33 4, the department shall establish a wait list for tax credits.
34 Valid applications filed by the taxpayer by May 1 following the
35 year of the installation but not approved by the department

1 shall be placed on a wait list in the order the applications
2 were received and those applicants shall be given priority
3 for having their applications approved in succeeding years.
4 Placement on a wait list pursuant to this subparagraph shall
5 not constitute a promise binding the state. The availability
6 of a tax credit and approval of a tax credit application
7 pursuant to this section in a future year is contingent upon
8 the availability of tax credits in that particular year.

9 Sec. 3. Section 422.11L, Code 2016, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. 6. For purposes of this section, "*Internal*
12 *Revenue Code*" means the Internal Revenue Code of 1954, prior
13 to the date of its redesignation as the Internal Revenue Code
14 of 1986 by the Tax Reform Act of 1986, or means the Internal
15 Revenue Code of 1986 as amended to and including January 1,
16 2016.

17 Sec. 4. Section 423.3, subsection 80, paragraph a, Code
18 2016, is amended to read as follows:

19 a. For purposes of this subsection, "*designated exempt*
20 *entity*" means ~~an~~ any of the following:

21 (1) An entity which is designated in section 423.4,
22 subsection 1 or 6.

23 (2) An entity which is an instrumentality of a county or
24 municipal government, including an agent of such entity, if
25 the entity was created for the purpose of owning, including
26 pursuant to a lease-purchase agreement, real property located
27 within a reinvestment district established under chapter 15J.

28 Sec. 5. Section 429.2, subsection 2, paragraph c, Code 2016,
29 is amended to read as follows:

30 c. The director of revenue shall consider all evidence and
31 witnesses offered by the taxpayer and the department, including
32 but not limited to evidence relating to the proper valuation of
33 the property involved.

34 Sec. 6. Section 437A.15, subsection 7, paragraph b, Code
35 2016, is amended to read as follows:

1 *b.* The task force shall study the effects of the replacement
2 taxes under *this chapter* and *chapter 437B* on local taxing
3 authorities, local taxing districts, consumers, and taxpayers
4 through January 1, ~~2016~~ 2019. If the task force recommends
5 modifications to the replacement tax that will further the
6 purposes of tax neutrality for local taxing authorities, local
7 taxing districts, taxpayers, and consumers, consistent with the
8 stated purposes of *this chapter*, the department of management
9 shall transmit those recommendations to the general assembly.

10 Sec. 7. Section 437B.11, subsection 7, Code 2016, is amended
11 to read as follows:

12 7. The utility replacement tax task force created in section
13 437A.15 shall study the effects of the replacement tax on
14 local taxing authorities, local taxing districts, consumers,
15 and taxpayers through January 1, ~~2016~~ 2019. If the task
16 force recommends modifications to the replacement tax that
17 will further the purposes of tax neutrality for local taxing
18 authorities, local taxing districts, taxpayers, and consumers,
19 consistent with the stated purposes of *this chapter*, the
20 department of management shall transmit those recommendations
21 to the general assembly.

22 Sec. 8. Section 476C.1, subsection 6, paragraph d, Code
23 2016, is amended to read as follows:

24 *d.* Was initially placed into service on or after July 1,
25 2005, and before January 1, ~~2017~~ 2018.

26 Sec. 9. Section 476C.3, subsection 4, paragraph b,
27 unnumbered paragraph 1, Code 2016, is amended to read as
28 follows:

29 The maximum amount of energy production capacity equivalent
30 of all other facilities the board may find eligible under this
31 chapter shall not exceed a combined output of ~~sixty-three~~
32 seventy-three megawatts of nameplate generating capacity and,
33 annually, one hundred sixty-seven billion British thermal units
34 of heat for a commercial purpose.

35 Sec. 10. Section 476C.3, subsection 4, paragraph b,

1 subparagraph (3), Code 2016, is amended to read as follows:

2 (3) (a) Of the maximum amount of energy production capacity
3 equivalent of all other facilities found eligible under
4 this chapter, ~~ten~~ twenty megawatts of nameplate generating
5 capacity or energy production equivalent shall be reserved for
6 solar energy conversion facilities ~~with~~ that meet all of the
7 following requirements:

8 (i) The facility has a generating capacity of one and
9 one-half megawatts or less.

10 (ii) The facility is owned, in whole or in part, directly
11 or indirectly, or is contracted for, by utilities described in
12 section 476C.1, subsection 6, paragraph "b", subparagraphs (4)
13 and (5).

14 (iii) The facility is located in this state.

15 (iv) The facility meets the requirements of section 476C.1,
16 subsection 6, paragraphs "d" through "f".

17 (b) A solar energy conversion facility that meets the
18 requirements of and is found eligible under subparagraph
19 division (a) shall be considered an "eligible renewable energy
20 facility" for purposes of this chapter, notwithstanding any
21 contrary provisions of section 476C.1, subsection 6.

22 Sec. 11. Section 476C.3, subsection 7, Code 2016, is amended
23 to read as follows:

24 7. An owner meeting the requirements of section 476C.1,
25 subsection 6, paragraph "b", shall not be an owner of more than
26 two eligible renewable energy facilities. A person that has
27 an equity interest equal to or greater than fifty-one percent
28 in an eligible renewable energy facility shall not have an
29 equity interest greater than ten percent in any other eligible
30 renewable energy facility. This subsection shall not apply to
31 facilities described in section 476C.3, subsection 4, paragraph
32 "b", subparagraph (3).

33 Sec. 12. Section 476C.5, Code 2016, is amended to read as
34 follows:

35 **476C.5 Certificate issuance period.**

1 A producer or purchaser of renewable energy shall receive
2 renewable energy tax credit certificates for a ten-year period
3 for each eligible renewable energy facility under [this chapter](#).
4 The ten-year period for issuance of the tax credit certificates
5 begins with the date the purchaser of renewable energy first
6 purchases electricity, hydrogen fuel, methane gas or other
7 biogas used to generate electricity, or heat for commercial
8 purposes from the eligible renewable energy facility for
9 which a tax credit is issued under [this chapter](#), or the date
10 the producer of the renewable energy first uses the energy
11 produced by the eligible renewable energy facility for on-site
12 consumption. Renewable energy tax credit certificates shall
13 not be issued for renewable energy purchased or produced for
14 on-site consumption after December 31, ~~2026~~ 2027.

15 Sec. 13. EFFECTIVE UPON ENACTMENT. The following
16 provision or provisions of this Act, being deemed of immediate
17 importance, take effect upon enactment:

- 18 1. The section of this Act enacting section 421.48.
- 19 2. The section of this Act amending section 429.2.
- 20 3. The section of this Act amending section 437A.15.
- 21 4. The section of this Act amending section 437B.11.
- 22 5. The section of this Act amending section 476C.1.
- 23 6. The sections of this Act amending section 476C.3.
- 24 7. The section of this Act amending section 476C.5.

25 Sec. 14. RETROACTIVE APPLICABILITY. The following
26 provision or provisions of this Act apply retroactively to
27 January 1, 2016:

- 28 1. The section of this Act amending section 437A.15.
- 29 2. The section of this Act amending section 437B.11.

30 Sec. 15. RETROACTIVE APPLICABILITY. The following
31 provision or provisions of this Act apply retroactively to
32 January 1, 2015, for tax years beginning on or after that date:

- 33 1. The section of this Act enacting section 422.11L,
34 subsection 6.

35 Sec. 16. RETROACTIVE APPLICABILITY. The following

1 provision or provisions of this Act apply retroactively to
2 January 1, 2016, for tax years beginning on or after that date:

3 1. The section of this Act amending section 476C.1.

4 2. The section of this Act amending section 476C.3,
5 subsection 4, paragraph "b", unnumbered paragraph 1.

6 3. The section of this Act amending section 476C.5.

7 Sec. 17. RETROACTIVE APPLICABILITY.

8 1. Except as provided in subsection 2, the section of this
9 Act amending section 476C.3, subsection 4, paragraph "b",
10 subparagraph (3), applies retroactively to January 1, 2015, for
11 tax years beginning on or after that date, and retroactively to
12 June 26, 2015, for applications for the renewable energy tax
13 credit made on or after that date.

14 2. The provision of the section of this Act amending
15 section 476C.3, subsection 4, paragraph "b", subparagraph (3),
16 increasing from ten megawatts to twenty megawatts the amount
17 of nameplate generating capacity that is reserved for certain
18 solar facilities, applies retroactively to January 1, 2016, for
19 tax years beginning on or after that date.

20 Sec. 18. RETROACTIVE APPLICABILITY. The following
21 provision or provisions of this Act apply retroactively to May
22 22, 2015:

23 1. The section of this Act amending section 429.2.

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with
26 the explanation's substance by the members of the general assembly.

27 This bill relates to the administration of the tax and
28 related laws by the department of revenue.

29 BACKGROUND CHECKS. The bill requires an applicant for
30 employment with the department of revenue (department) at
31 the time of application, or a contractor, vendor, employee,
32 or any other individual performing work for the department
33 to be subject to a national criminal history check through
34 the federal bureau of investigation (FBI) at least once
35 every 10 years. The bill directs the department to provide

1 fingerprints to the department of public safety for submission
2 through the state criminal history repository to the FBI, and
3 requires individuals to authorize release of the results to
4 the department. The department is required to pay the actual
5 costs of the fingerprinting and the criminal history check.
6 The bill provides that the results of a criminal history check
7 are not considered a public record under Code chapter 22 (open
8 records). This provision takes effect upon enactment.

9 SOLAR ENERGY SYSTEM TAX CREDIT. The bill amends the Iowa
10 solar energy system tax credit in Code section 422.11L, which
11 is provided for the installation of a solar energy system in
12 an amount equal to certain percentages of related federal
13 solar energy tax credits. The bill requires that tax credit
14 applications be accepted and approved by the department on a
15 first-come, first-served basis until the maximum tax credit
16 amount that may be claimed each tax year is reached. If
17 tax credit applications exceed that maximum amount for a tax
18 year, the bill requires the department to establish a tax
19 credit wait list, and applications that were filed by the
20 May 1 deadline but not approved will be placed on the wait
21 list and given priority for having their application approved
22 in succeeding years. The bill states that placement on the
23 wait list does not constitute a promise binding the state,
24 and the availability of a tax credit and approval of a tax
25 credit application in a future year is contingent upon the
26 availability of tax credits in that particular year.

27 The bill also defines "Internal Revenue Code" (IRC) for
28 purposes of the Iowa solar energy system tax credit to mean
29 the IRC in effect on January 1, 2016. Under current law for
30 purposes of the Iowa tax credit, IRC means that in effect on
31 January 1, 2015. This change has the effect of incorporating
32 into the Iowa tax credit changes made by Congress in 2015
33 to the related federal energy system credits for tax years
34 beginning in 2017 or later. In 2015, Congress extended the
35 expiration date for several of the federal energy system

1 tax credits upon which the Iowa tax credit is calculated
2 (IRC §25D(a)(1), §25D(a)(2), and §48(a)(2)(A)(i)(II)) to
3 January 1, 2022, from January 1, 2017. This provision applies
4 retroactively to January 1, 2015, for tax years beginning on
5 or after that date.

6 SALES AND USE TAXES. A sales tax exemption is provided under
7 current law to contractors, subcontractors, and builders for
8 the purchase of building materials, supplies, and equipment
9 for use in the performance of a construction contract with
10 a designated exempt entity. The bill amends the definition
11 of "designated exempt entity" to include an instrumentality
12 of a county or municipal government, including an agent of
13 such entity, if the entity was created for the purpose of
14 owning, including pursuant to a lease-purchase agreement, real
15 property located within a reinvestment district established
16 under the Iowa Reinvestment Act in Code chapter 15J. The
17 Iowa Reinvestment Act, in general, authorizes municipalities
18 to establish reinvestment districts and receive remittances
19 of specified amounts of state sales tax and state hotel and
20 motel tax revenues collected in those districts for use in
21 undertaking projects within the district.

22 By operation of Code section 423.6, an item exempt from the
23 imposition of the sales tax is also exempt from the use tax
24 imposed in Code section 423.5.

25 CENTRALLY ASSESSED PROPERTY. The bill adds the department
26 of revenue to the list of parties for which the director of
27 revenue shall consider all offered evidence and witnesses
28 during an appeal of an assessment of certain property centrally
29 assessed by the department of revenue for purposes of property
30 taxation. This provision takes effect upon enactment and
31 applies retroactively to May 22, 2015.

32 UTILITY REPLACEMENT TAX TASK FORCE. The bill extends the
33 utility replacement tax task force to January 1, 2019, from
34 January 1, 2016. This task force was created to study the
35 effects of the replacement taxes on electricity and natural gas

1 providers and rate-regulated water utilities. This provision
2 takes effect upon enactment and applies retroactively to
3 January 1, 2016.

4 RENEWABLE ENERGY TAX CREDIT. The bill increases to 73
5 megawatts from 63 megawatts the maximum amount of nameplate
6 generating capacity for which renewable energy tax credit
7 certificates may be issued under Code chapter 476C for
8 facilities other than wind conversion facilities, and
9 increases to 20 megawatts from 10 megawatts the amount of that
10 total nameplate generating capacity reserved for tax credit
11 certificates to solar facilities with a generating capacity
12 of 1.5 megawatts or less (small solar facilities) that are
13 owned or contracted for by electric cooperative associations,
14 municipally owned utilities, public utilities subject to rate
15 regulation, or electric cooperative associations (specified
16 utilities).

17 The bill also extends to January 1, 2018, from January 1,
18 2017, the date upon which a renewable energy facility must be
19 placed in service in order to qualify for the renewable energy
20 tax credit under Code chapter 476C, and extends to December
21 31, 2027, from December 31, 2026, the date on which renewable
22 energy tax credit certificates shall no longer be issued.

23 These renewable energy tax credit provisions take effect
24 upon enactment and apply retroactively to January 1, 2016, for
25 tax years beginning on or after that date.

26 For small solar facilities owned by the specified utilities,
27 the bill removes the requirement that the specified utility
28 must own at least 51 percent of the facility and instead
29 provides that the specified utility must own the facility in
30 whole or in part, directly or indirectly.

31 Also under current law for purposes of qualifying for the tax
32 credit, an owner of an eligible renewable energy facility shall
33 not own more than two eligible renewable energy facilities, and
34 a person that has an equity interest of at least 51 percent
35 in an eligible renewable energy facility shall not have an

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1 equity interest greater than 10 percent in any other eligible
2 renewable energy facility. The bill provides that these
3 restrictions shall not apply to the small solar facilities
4 described above.

5 These renewable energy tax credit provisions take effect
6 upon enactment and apply retroactively to January 1, 2015,
7 for tax years beginning on or after that date, and apply
8 retroactively to applications for the renewable energy tax
9 credit made on or after June 26, 2015.